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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,660	11/26/2003	Rick James Morse	D0932-00428 [VS-8855]	8809

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/723,660

Applicant(s)

MORSE, RICK JAMES

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-20, 22-24, 27-30 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

In view of the applicant's amendment submitted, an examination of pending claims 1-28 follows.

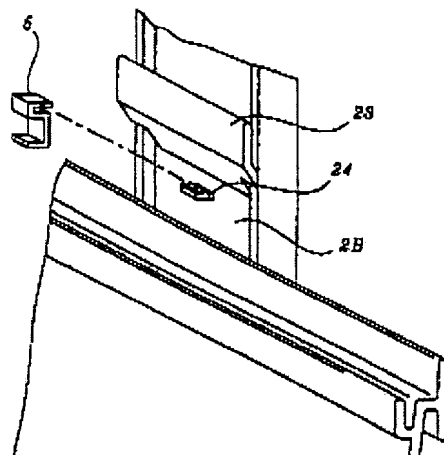
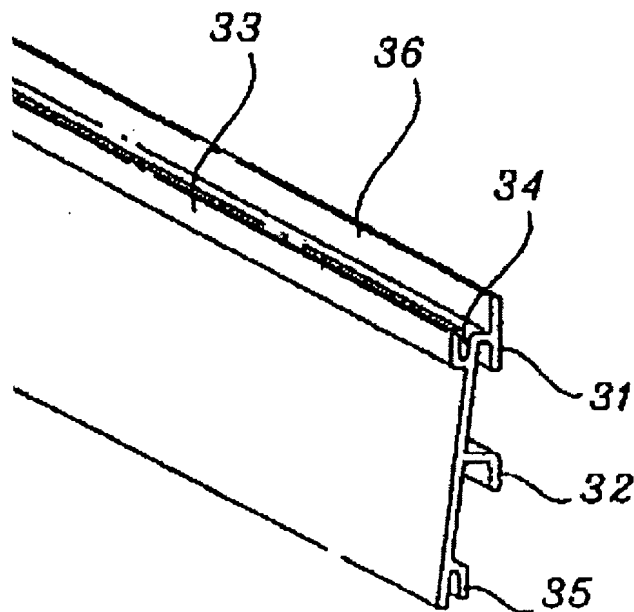
Allowable Subject Matter

The indicated allowability of claims 5 and 8-16 is withdrawn in view of the newly discovered reference(s) to KIM. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5,8-10,16,27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,044,609 to KIM. Regarding claims 1,9 and 27, KIM discloses the use of a siding panel (3) having a front (F) and rear face (R), wherein the rear face (R) has a first area (FA) or upper half of the panel (3) at a top end having a portion (31) that is flush with the vertical wall (P-1) and (23) such that the top portion is thickened as between (31 and 33), wherein the panel (3) is angled to overlap at least a portion (not labeled) of a second siding panel (3) see figure 2. The rear face (R) includes a portion (P-2) proximate a bottom end thereof that



rests upon a front face (as at 33) of the second siding panel (3). In reference to claims 2 and 3, KIM does not explicitly detail that his siding panel is a "clapboard" per se'; however, the figures clearly detail a "clapboard". A "clapboard", as known in the art, is a board having one end thicker than the other; wherein the board overlaps another board of its kind. The board (3) of KIM is clearly thin on one end at portion (P-3) and thicker

on the other end at portion (P-4). Further, KIM does detail that his panel is a furring panel which is commonly known in the art as being made from wood or metal. Thus, KIM inherently details a "wood clapboard". In reference to claims 4,5 and 10, the first area (FA) is a reinforced area that comprises a protruding area (32) that extends along the entire length of the panel (3). Regarding claim 8, the board (3) of KIM is clearly thin on one end at portion (P-3) and thicker on the other end at portion (P-4). With further reference to claims 16 and 27, the rear face (R) includes a first portion (P-5) that is obliquely angled with respect to the vertical wall and a second portion (P-6) that is flush with and in contact with a portion (P-1) and (23) of the vertical wall. Regarding claim 28, the second portion (P-6) includes a protruding portion (31) that extends along the entire length of the rear face (R).

Claims 17-19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,044,609 to KIM. The structure of KIM inherently discloses the method of installing the siding panel (3), as detailed above, including the steps of providing the panel and attaching a first panel and a second panel to a structure (1) such that a rear face (R) of the siding (3) includes a portion (P-2) proximate a bottom end thereof that rests upon a front face (as at 33) of the second siding panel (3), see figure 2. Regarding claim 18, the first area (FA) is an area reinforced by portions (31,32). In reference to claims 19 and 21, the attaching step involves driving a plurality of blind nails (4) through the reinforced area (RA) and into the vertical wall (1). Regarding claims 22 and 23, KIM does not explicitly detail that his siding panel is a "clapboard" per se'; however, the figures clearly detail a "clapboard". A "clapboard", as

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known in the art, is a board having one end thicker than the other; wherein the board overlaps another board of its kind. The board (3) of KIM is clearly thin on one end at portion (P-3) and thicker on the other end at portion (P-4). Further, KIM does detail that his panel is a furring panel which is commonly known in the art as being made from wood or metal. Thus, KIM inherently details a "wood clapboard".

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6,7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,044,609 to KIM. KIM discloses the basic claimed panel except for explicitly detailing the height of the planar first face and except for detailing the angle that the panel is disposed with regards to the vertical wall. Regarding claim 6, the reinforced area (32) includes a planar first face (PFF) disposed in contact with portion (23) of the vertical wall that is flush with the vertical wall (30). KIM does not detail a height requirement for the planar first face. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a planar first face height suitable for the use intended as an obvious matter of design choice. For instance, structures that are know to be subject to more earth movement than other, might use a planar first portion that has a larger height the home that are not subject to movement of the earth. Movement from the earth or earthquakes cause a structure to move; wherein, the siding members also move with respect thereto. In reference to claims 7 and 15, although KIM does not detail the angle of inclination of his panel with

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respect to the wall, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a panel angle suitable for the use intended as an obvious matter of design choice. Perhaps larger panel inclinations would be used if there exists a need to expel water from the surface of the siding member.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,044,609 to KIM in view of US Patent #2,231,006 to HARSHBERGER. KIM discloses the basic claimed invention except for detailing that the siding panel is a fiber cement clapboard. HARSHBERGER teaches that it is known in the art to form a siding member (10) out of fiber cement, page 4, left side, lines 60-62. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the siding member of KIM out of the fiber cement clapboard material, as taught by HARSHBERGER, in order to create a siding member that is durable, and is aesthetically pleasing in that it resembles the appearance of a natural wood product.

Allowable Subject Matter

Claims 14 and 20 remains objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25-26 stand as being allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

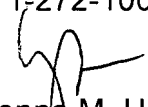
Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne M. Horton
Examiner
Art Unit 3635

03/05/07